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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,930	07/18/2003	Kevin M. Haakenson	782-03-PA-J	2770
7590	09/15/2005		EXAMINER	
James G. O'Neill Klein, O'Neill & Singh, LLP Suite 510 2 Park Plaza Irvine, CA 92614			KRAMER, DEAN J	
			ART UNIT	PAPER NUMBER
			3652	
DATE MAILED: 09/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/622,930	HAAKENSON, KEVIN M.
	Examiner	Art Unit
	Dean J. Kramer	3652

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 18-20 is/are allowed.
- 6) Claim(s) 1,2,4,5 and 8-11 is/are rejected.
- 7) Claim(s) 3,6,7 and 12-17 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/18/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Roman (1,755,335).

Roman shows a holder for a beverage container comprising a base (1), an elongated handles assembly (6,7), and an arcuate web (10,11,12,13,15,16). The general appearance of Roman's holder is somewhat suggestive of a high-heeled shoe (see Fig. 1).

3. Claims 1, 2, 4, 5, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Minor et al. (4,461,100).

The patent to Minor et al. shows an apparatus in Figure 1 comprising a base (12) defining a receptacle that is capable of supporting a certain sized beverage container, an elongated member (11) that can function as a handle, an arcuate web portion (arch support) connecting members (12) and (11), and a strap (15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shull (4,817,810) in view of Rice, Jr. et al. (2,088,387).

Shull shows a holder that substantially contains the limitations as recited in claim 1 of the instant application except that it is unclear whether the lower end of handle (12c) is coplanar with the lower surface of base (12a).

However, the patent to Rice, Jr. et al. shows it old and well known to locate the bottom end of a handle (5) coplanar with the bottom surface of a base (9) such that the handle provides additional support for the holder when resting on a horizontal surface.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the end of Shull's handle (12c) to the same level as the bottom surface of base (12a) as taught by Rice, Jr. et al. in order to create a more stable holder when supporting a container on a horizontal surface.

6. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shull in view of Rice, Jr. et al. as applied to claim 1 above, and further in view of Russell (4,936,614).

Russell shows a one-piece beverage container holding device having a handle (16) with a plurality of finger holding portions formed on an inner surface thereof.

It would have been obvious to a person having ordinary skill in the art to provide finger accommodating undulations on an inner surface of the modified Shull handle

(12c) similar to that shown in the Russell patent so that a user may more comfortably grip the handle.

Regarding claims 9 and 10, it would have been an obvious matter of design choice to integrally form the resulting holder by any well known manufacturing process, such as molding or sculpting, especially since applicant has not specifically disclosed that a particular process solves any stated problem or is for any critical purpose, and it appears that the device would perform equally well as long as its one piece design would be sturdy enough to support a beverage container filled with liquid.

Allowable Subject Matter

7. Claims 3, 6, 7, and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 18-20 are allowed.

Specification

The first paragraph of the specification should be updated by applicant to include the specific serial number and filing date of the referenced Design patent application.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Alsdorf shows a beverage container holder having the general shape of a high-heeled shoe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (571) 272-6926. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dean J. Kramer 9/13/05
Primary Examiner
Art Unit 3652

djk
9/13/05